

Paul J. Garrick, OSB #82475
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 FRED LONG, TRUSTEE
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Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF OREGON

In re)	Case No. 11-60112-fra13
)	
CLARENCE J. SWING and)	TRUSTEE'S OBJECTION TO
LAURA SWING,)	CONFIRMATION; AND
)	MOTION TO DISMISS
Debtors.)	
_____)	

FRED LONG, Trustee, objects to confirmation of the debtor's chapter 13 plan dated January 12, 2011 (Docket No. 2). The reasons for objection are:

1. **Status.** The undersigned recently received a phone call from the debtors' son, asking whether the debtors need to file a modified plan in light of Northwest Community Credit Union's withdrawal of objection to confirmation (Docket No. 49; 6/22/11). I explained that I could not give legal advice to the debtors (or their son). The trustee has not previously filed an objection to confirmation because he assumed that the debtors would file a modified plan. Since that assumption may now be in doubt, the trustee files this objection to make clear why, in his view, the present plan cannot be confirmed.

2. **Feasibility.** A chapter 13 plan must be completed within five years. 11 U.S.C. § 1322(d). According to the proof of claim filed by Homecomings Financial (Claim No. 6; 6/1/11), the arrearage is \$37,810. Paragraph 2(b)(1) of the plan estimates the arrearage at \$12,913. The plan is not feasible if the creditor is correct. The current plan includes a \$40,000 "best interest number," *see* P.4, below, which makes the feasibility problem even worse.

10 5. **Paragraph 4: current mortgage payments.** Paragraph 4 of the plan requires the
11 debtors to make their regular, postpetition mortgage payments. The creditor's motion for relief
12 from stay (Docket No. 18; 3/31/11) asserts that postpetition payments are not current. The
13 debtors' response (Docket No. 30; 4/21/11) asserts that the creditor does not have a lien on the
14 property, and lacks standing to file a motion for relief from stay. The plan cannot be confirmed
15 until this dispute is resolved.

22 **7. Motion to Dismiss.** The trustee moves the court for an order dismissing this case.

By: /s/ Paul J. Garrick
Paul J. Garrick, OSB #82475
Staff Attorney

CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2011, I served a copy of the foregoing TRUSTEE'S
OBJECTION TO CONFIRMATION; AND MOTION TO DISMISS by mailing a copy of this
document by United States first class mail, postage prepaid, and addressed to the following:

Clarence J. Swing and Laura Swing
17479 Hwy 62
Eagle Point, OR 97524

FRED LONG, TRUSTEE

By: /s/ Paul J. Garrick
Paul J Garrick, OSB #82475
Staff Attorney